

ENVIRONMENTAL PROTECTION COMMISSION
MINUTES
EXECUTIVE SESSION, GENERAL MEETING & PUBLIC HEARING
MARCH 3, 2004

The General Meeting was called to order at 7:30 p.m. in Room 119 of the Darien Town Hall.

Commission Members Present: Peter Hillman, Susan Cameron, Reese Hutchison,
Robert Kenyon and Nina Miller

Commission Staff Present: Nancy Sarner

General Meeting:

Old Business:

Chairman Hillman read the following agenda item:

Continuation of EPC-6-2004, John B. Ward, 32 Beach Drive, proposing the construction of an addition, garage and decks, and perform related site development activities within 100' of Holly Pond. The property is located on the west side of Beach Drive approximately 1,400' south of the intersection of Boston Post Road and Beach Drive, shown on Tax Assessor's Map #53 as Lot #6.

Jeffrey McDougal, L.S, and John Roberge, P.E., represented Mr. Ward for the continuation of the application review.

Mr. McDougal explained that an updated drainage report by Mr. Roberge was submitted. Mr. Kenyon inquired to the report revisions. Mr. Roberge replied that tables were corrected from the previous submission. Mr. Hillman clarified that the new residence was correctly shown on the new chart as five times larger than the existing residence. Mr. Kenyon noted a typographical error on page two of the report. The proposed coverage was listed as "0.69 acres" instead of "0.069 acres."

Mr. Hillman asked Mr. McDougal to summarize the regulated activities proposed under the application. Mr. McDougal explained that the property sits on Holly Pond, and all proposed work would be located within the 100' regulated setback area from the pond. The application proposes the construction of single-car garage to the south of the residence, with minor modifications to the driveway. An addition is proposed to the rear of the residence, partially covering an existing wooden deck. The deck would be reconstructed in the rear of the new addition. An 8'x40' stone filled trench drain would be installed in the backyard to collect increased runoff from the roof areas of the expanded house and new garage. An 8' trench drain would also be installed in front of the garage to collect the smaller volume of runoff from the proposed driveway expansion.

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Mr. Hillman asked about the function of the new space. Mr. McDougal replied that the addition would be used for a family room and kitchen. The existing kitchen is located in the back right corner of the house.

Mr. Hillman expressed concern regarding the significant increase in impervious area. Mr. McDougal stated that they designed the addition and garage to maintain the greatest distance they felt was possible from the pond and had received a variance from the Zoning Board of Appeals (ZBA). He noted that this proposal was not a teardown and rebuild for the property. Ms. Sarnier asked Mr. McDougal about a denial received from the ZBA. Mr. McDougal replied that the board denied a request for dormers.

Ms. Cameron asked about the proposed space. Mr. McDougal replied that they would construct a one-car garage and that the final residence would have four bedrooms. The basement would have exterior access for storage and flood proofing, but no finished living areas. In response to a question, Mr. McDougal stated that there would be no regrading on the property.

Ms. Miller asked about the definition of the VE-15 Flood Zone. Mr. Roberge replied that the term refers to wave velocity. He stated that the first floor elevation, 14', would be one foot above the flood level.

Ms. Miller inquired if the overflow parking in the backyard would compact root areas. Mr. McDougal replied that there were no trees in the parking area. He added that the area of the proposed infiltrator would be excavated after the parking activity is over in case the soils become compacted by the vehicular traffic.

In response to a question, Mr. McDougal confirmed that the property is connected to town sewer and water.

Mr. Hutchison asked about the possibility of installing a planting buffer. Mr. McDougal and Mr. Roberge replied that a stone seawall is located at the pond edge and is bordered by low bush and groundcover. Ms. Miller stated that she noted some degradation of the seawall during her site visit. Mr. McDougal and Mr. Roberge said that they were applying for permits through the Connecticut DEP for the wall repair.

Ms. Cameron asked about potential impact from chemical leaching from the plastic used for the infiltrator. Mr. McDougal replied that he did not have information regarding chemical leachate from the matrix but that it would be encapsulated within concrete. He added that the unit would have a greater storage capacity than required in case it is not routinely cleaned, and lined with filter insert to collect sediments.

Upon further discussion of the plans and materials presented, the following motion was made: That the Commission approve the application as submitted. The work shall conform with the plans entitled "Zoning Location Survey, 32 Beach Drive, Prepared for John B. Ward, Darien, Connecticut" by William W. Seymour & Associates, dated February 11, 2003 and last revised August 20, 2003, and "Site Improvements Surface Drainage Plan, 32 Beach Drive, Darien, CT" by John Roberge, P.E., LLC, dated August 26, 2003. The motion was made by Mr. Hillman, seconded by Ms. Cameron, and unanimously approved.

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New Business:

Chairman Hillman read the following agenda item:

EPC-9-2004, Lisa Michels, 34 Lake Drive, proposing the replacement of an existing hot tub and installation of a new mechanical pool cover, and perform related site development activities within a regulated area. The property is located on the west side of Lake Drive approximately 550' north of the intersection of Philips Lane and Lake Drive, shown on Tax Assessor's Map #30 as Lot #4.

Mrs. Lisa Michels presented her application request to the Commission. Mr. Hillman expressed concern regarding the hot tub and inquired to alternatives. Ms. Cameron noted that during the Commission's discussion with Mrs. Michels regarding Application #EPC-61-2003, the Commission found that the sunroom was an appropriate location for a hot tub. Ms. Miller asked when the tree removal approved under #EPC-73-2003 was conducted. Mrs. Michels replied that the tree was removed approximately three months ago.

In response to a question, Ms. Michels stated that the pool cover shown on the plans is existing.

The Commission expressed concern that not enough information was provided to make a fair and informed determination of the issues, including alternative locations for the hot tub. Mr. Hutchison asked if the hot tub would be placed on a platform. Mrs. Michels replied that it would be placed on a slab. Mr. Hillman asked for a picture of the type of hot tub to be installed. Ms. Cameron asked for a scaled plan or drawing of the proposal.

The Commission requested that the following items be addressed, and continued the discussion to the April 7, 2004 meeting: plan showing the dimensions and scaled location of the proposed hot tub and electric lines, picture or brochure of the hot tub, and an updated project description describing the type of work needed to install the new hot tub. Mrs. Michels stated that she would consider whether to withdraw her application, and would discuss her next steps with Commission Staff.

Chairman Hillman read the following agenda item:

Amendment of EPC-86-2003, Anne & Mike Armstrong, 699 Hollow Tree Ridge Road, requesting approval of the construction of a cantilevered bay addition, and perform related site development activities within a regulated area. The property is located on northwest side of Hollow Tree Ridge Road approximately 320' south of the intersection of Hollow Tree Ridge Road and Ox Ridge Lane, shown on Tax Assessor's Map #3 as Lot #41.

Paul Berry of Eric Baker Architects presented the permit amendment request to the Commission on behalf of Mr. and Mrs. Armstrong. He explained that as work began for the residence, severe infestation and rot was found throughout the building, thereby requiring that the porch attachment to the family room must be rebuilt. The work would be conducted approximately 20' from the wetlands. In addition, a new cantilevered bay is proposed and the chimney would be brought up to code. Mr. Berry explained that they scaled the project down by reducing the size of the addition, and no machinery would be brought into the regulated area.

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Ms. Miller and Ms. Cameron discussed the deer fence netting. Mr. Berry explained that the fence does not restrict the movement of deer through the property but protects a specific area of ornamental plantings.

Upon further discussion of the plans and materials presented, the following motion was made: That the Commission grant the request to amend Wetland Permit Approval #EPC-86-2003 to include the reconstruction of the porch and construction of a new "cantilevered" bay addition. The work activity was approved as described within the report by Paul Berry of Eric Baker Architecture, received by the Planning and Zoning Office on February 12, 2004, and shown on the plans included with the report. The motion was made by Ms. Miller, seconded by Ms. Cameron, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-10-2004, Country Club of Darien, 300 Mansfield Avenue, proposing the maintenance of and removal of debris from an existing pond, and perform related site development activities within a regulated area. The property is located on the east side of Mansfield Avenue approximately 1,800' north of the intersection of Mansfield Avenue and Buttonwood Lane, shown on Tax Assessor's Map #5 as Lot #40.

Tim O'Neil of the Country Club of Darien presented the application and addressed questions from the Commission. Mr. Hillman stated that the Commission has read the application, which was similar to the pond maintenance work proposed by the Club under #EPC-5-2003. Ms. Cameron opinioned that the work was a service to the Town because debris is collected in the pond before the stream flows into the Goodwives River.

Ms. Miller asked about the timing of the work. Mr. O'Neil replied that the work would be conducted within the next month or so, and would take two to three days to complete in addition to the two days to lower the pond level by opening the spillway valve. He stated that all disturbed areas would be repaired. Mr. Hutchison asked about the storage of the dredged materials. Mr. O'Neil replied that the materials would be stored at the other end of the property near the Club's recycling center in an area surrounded by a 6' berm. Mr. O'Neil reported that the work would be the fourth dredging of the pond in 20 years.

Upon further discussion of the plans and materials presented, the following motion was made: That the Commission approve Wetlands Permit Application #EPC-10-2004 as submitted, and shown on the plans submitted, labeled 6C.b and 6D.2. The storage area is located beyond Fairway #14 and is accessed by the existing service road. The debris shall be stored no closer than 50-feet to any adjacent wetlands and waterways. Hay bales and/or silt fencing shall be placed around the dredged material to ensure that sediments are not carried to other areas by stormwater runoff. The motion was made by Ms. Cameron, seconded by Mr. Hillman, and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-14-2004, Mark DeAngelis & Carmen Molinos, 16 Stony Brook Road, proposing the correction of a violation of the Town's Inland Wetland and Watercourses Regulations, and proposing new regulated activities, including the installation paths, arbor, footbridge and gazebo,

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relocation of an existing shed, relocation of an existing propane tank, installation of new parking areas, and perform related site development activities within a regulated area. The violation involves the unauthorized clearing of trees and understudy vegetation, disturbance of a stream channel, and associated impacts to the regulated setback and wetland areas. Discussion shall include a review of the unauthorized regulated activities and consideration of proposed landscaping and site improvements. The property is located on the east side of Stony Brook Road approximately 530' north of the intersection of Stony Brook Road and West Avenue, shown on Tax Assessor's Map #18 as Lot #85.

Chairman Hillman motioned that the application be scheduled for a Public Hearing on May 5, 2004 due to public interest and significant impact posed to the resources. The motion was seconded by Mr. Hutchison and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-13-2004, Kurt & Claire Locher, 19 Meadowbrook Road, proposing installation of an inground pool, deck expansion, installation of a hot tub, and perform related site development activities within a regulated area. The property is located on the side of east side of Meadowbrook Road, approximately 1,010' east of the intersection of Meadowbrook Road and Brookside Road, shown on Tax Assessor's Map #14 as Lot #9.

Chairman Hillman motioned that the application be scheduled for a Public Hearing on April 7, 2004 due to potential impact to the wetland resources. The motion was seconded by Mr. Hutchison and unanimously approved.

Chairman Hillman read the following agenda item:

EPC-12-2004, Sturgis & Carolyn Woodberry, 7 Rabbit Lane, proposing an addition to a residence, alteration of an existing driveway, installation of wetland and buffer plantings, and perform related site development activities within a regulated area. The property is located on the north side of the cul-de-sac for Rabbit Lane, approximately 450' north of the intersection of Rabbit Lane and Overbrook Lane, shown on Tax Assessor's Map #10 as Lot #11.

Lance Zimmerman, Architect, presented the application. He was joined by Mr. and Mrs. Woodberry, property owners, and Matt Popp, L.A., who were present to address questions from the Commission. Mr. Zimmerman summarized that the application proposed additions to create new space for a breakfast room, pantry and three-car garage. The three-car garage was requested for storage since the house does not have a basement or attic. Mr. Hillman stated that at first glance, he did not like the proposal, but after reviewing the details, alternatives and mitigation provided with the application, he felt that he could support its approval.

Upon further discussion of the plans and materials presented, the following motion was made: approved the above-referenced application. The work was approved as shown on the plans entitled:

- Untitled Sketch by Architect Lance Zimmerman of Proposed Additions and Driveway Modification, overlaid on "Survey of Property for Sturgis P. Woodberry and Carolyn A. Woodberry, Darien, Conn." by S.E. Minor & Co. Inc., last revised 2-13-04 and received by the Planning and Zoning Office on February 13, 2004, and

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- “Wetland Mitigation Plan, 7 Rabbit Lane, Darien, Connecticut” by Environmental Land Solutions, LLC, dated February 19, 2003.

Public Hearing: The Public Hearing portion of the agenda commenced at 8:30 p.m.

Chairman Hillman read the following agenda item:

Continuation of EPC-5-2004, Peter J. & Patricia A. Daigle, 5 Royle Road, proposing the creation of a new lot, relocation of an existing residence and garage, construction of a new residence and garage, and perform related site development activities within a regulated area. The property is located on the south side of Royle Road at the southwest corner formed by the intersection of Royle Road and Mansfield Avenue, shown on Tax Assessor’s Map #6 as Lot #41.

Mark Lebow of William Seymour & Associates presented the application. Mrs. Daigle was present to address questions from the Commission.

Mr. Lebow submitted drainage information for 50- and 100-year storm events. He explained that the application proposes a “free cut” to create a new building lot. The existing residence would be relocated to and rotated on the western lot. A new house would be constructed on the eastern lot with some intrusion, approximately 2’ to 8’ into the setback for the installation of the stonewall and walkway.

Mr. Lebow explained that they tried to address EPC request for zero increase in runoff by proposing a series of structural groundwater infiltrators and rain gardens. Rain gardens are 2” to 6” deep retention areas planted with native species. Runoff is captured in these depressions, and the plants and soils serve to filter pollutants in the stormwater and allow the cleansed water to recharge the water table. Mr. Lebow explained that the gardens would be no deeper than 12”, and would be created with the use of select fill after excavation. Ms. Cameron asked to review a proposed planting list to ensure the plantings are suitable for the wet conditions of the rain gardens, and recommend that a performance bond be required.

Mr. Hillman inquired to the proposed tree removal. Mr. Lebow replied that five trees would be removed that are located in close proximity to the construction activity and rain garden areas. Mr. Daigle explained that the clump of Maples shown on the plans are alive, but had competed for light so have a lot of top growth and fewer lower branches. Ms. Cameron inquired to past tree removal activity on the site. Mr. Daigle replied that they did remove trees but had not been aware that they needed prior wetlands approval. Ms. Cameron stated that she did not have concerns regarding the tree removal and were glad that they were saving the Cedar. Ms. Miller reported that the Daigles removed invasive species from the regulated area, which was an improvement.

Mr. Hutchison inquired to alternatives that had been considered for the free cut and subsequent development activity. Mr. Lebow explained that the western lot was designed to meet the minimum lot width to create the greatest distance from the eastern residence and wetlands, as well as create larger backyard areas. Mr. Daigle stated that they planned to move into the new residence on the eastern lot and sell the relocated house on the western lot. In response to a question, Mr. Daigle said that they would maintain the existing curb cut for the eastern lot.

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Ms. Miller noted that McLaren Road is lower in elevation than Royle Road and Mansfield Avenue. Mr. Daigle explained that the property pitches southward, and that the watercourse is only an open channel on his property. Ms. Miller stated that she grew up next door in the house immediately south of the Daigle property.

Ms. Cameron recommended that more information be submitted pertaining to the rain gardens ability to address the drainage issues because the Commission had seen downstream properties with drainage problems. Ms. Miller noted that the rain gardens would be used in combination with dry wells. Mr. Lebow explained that fill would be selected for rates of percolation, and the gardens would pick up runoff from hard surfaces. Mr. Hillman agreed that the application could be continued to hear more from the engineer and review a planting plan. Mr. Daigle said he would like input regarding the planting plan from Commission Staff.

After being recognized by the Chair, Ms. Benzenberg of 17 McLaren Road addressed the Commission. Ms. Benzenberg expressed concern regarding the size of the garage and new house, and wished the structures to be pushed toward the front property lines. Mr. Hillman explained that the issues presented by Ms. Benzenberg were not under the purview of the EPC, and recommended that the two neighbors talk over coffee. Mr. Daigle said he would be interested in planting evergreen trees, such as Cedar, for screening.

Mr. Benzenberg stated that he was in accord with his wife. He explained that his neighbor, Mrs. Lauer, has ponding on her property due to the poor drainage condition of the neighborhood, and added that he is concerned about the loss of his view of Royle School.

The Commission decided to continue the public hearing to the April 7, 2004 meeting in order to receive additional information regarding rain gardens, including plantings and maintenance.

The Commission resumed the General Meeting portion of the meeting agenda.

Chairman Hillman read the following agenda item:

EPC-11-2204, Bohdan I. Kurylko, 35 Beach Drive, proposing alteration of and additions to an existing single-family residence, new terrace, stonewall, plantings, and perform related site development activities within the 100' setback from Holly Pond. The property is located on the east side of Beach Drive approximately 1,570' south of the intersection of Beach Drive and the Boston Post Road, shown on Tax Assessor's Map #52 as Lot #101.

Patricia Warren, Architect, presented that application on behalf of Mr. and Mrs. Kurylko. Mr. Hillman stated that he felt that the application was complete and professional.

Ms. Warren explained that variances were received from the Zoning Board of Appeals, and that the application proposes very little ground disturbance. The bluestone patio would be installed at grade and set in stone dust, and therefore not an impervious area. She then summarized alternatives that had been considered, including the demolition and reconstruction of the residence, which she felt would pose greater impact to the pond than the current proposal.

Ms. Warren stated that a final planting plan had not been completed, including a shoreline planting plan. She said that the owners are certain that they would like to replace the foundation

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plantings but would maintain the existing size of the planting beds. She noted that the side yard contains a restricted area. No plantings higher than 4' can be installed in that area. Ms. Warren explained that the existing Hollies would be transplanted and they would keep the Japanese Maples.

Ms. Warren explained that the sunroom would be raised 6". The existing floor level creates a tripping hazard because it was set below the main house. In response to a question, Ms. Warren explained that the work would conform to flood permitting requirements, including anchoring the oil tank and using tempered windows.

Mr. Hutchison asked Ms. Warren about roof leaders and footing drains. Ms. Warren replied that there would be no foundation drain and that they would continue using the existing roof leaders.

Ms. Miller inquired about the proposed stonewall along the road right-of-way. Ms. Warren replied that the area is now a Hemlock hedge, and that the new stonewall would be 24" height by 18" width, with a gravel or cement footing.

Upon further discussion of the plans and materials presented, the following motion was made: That the Commission approve with conditions Wetland Permit Application #EPC-11-2004. The application is approved with the following condition:

That a shoreline planting/site landscaping plan be submitted to Commission staff for review and approval. The plan shall locate all plants to be removed and installed, and include a complete list of species, number and size of plantings proposed. The shoreline planting area shall augment existing plants and include species listed within the February 23, 2004 to the Commission from Architect Patricia Warren. The planting plan is an integral part of this approval; therefore, the shoreline planting/site landscaping plan must be approved and fully implemented prior to the issuance of a Certificate of Occupancy.

The work shall conform to the plan entitled "Zoning Location Survey, 35 Beach Drive, Prepared for Bohdan I. Kurylko & Lily A. Kurylko, Darien, Connecticut" by William W. Seymour & Associates, dated January 16, 2004, last revised February 3, 2004, as may be modified by this approval. The approval includes the installation of a stonewall adjacent to Beach Drive that is not shown on the aforementioned plan. The motion was made by Ms. Cameron, seconded by Mr. Hutchison, and unanimously approved.

Under its role as the Conservation Commission for the Town, the Commission recommended that the plantings, particularly the White Pine, located within the "deed restricted" area be maintained.

Chairman Hillman read the following agenda item:

EPC-15-2004, Kevin & Madeline Treesh, 9 Old Oak Road, proposing a garage, driveway expansion, second floor addition, and perform related site development activities within a regulated area. The property is located on the east side of Old Oak Road, approximately 280' north of the intersection of Old Oak Road and Leeuwarden Road, shown on Tax Assessor's Map #8 as Lot #6.

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Jeffrey McDougal of William Seymour & Associates presented the application on behalf of Mr. and Mrs. Treesh. Mr. McDougal informed the Commission that proposed rear steps are not shown on the survey off of the new addition.

Mr. McDougal explained that the application proposes the construction of a 12' addition over a portion of the existing driveway, the extension of the driveway turnaround area, and a master bedroom addition over the existing screened porch. Mr. McDougal stated that they are not certain if the porch is structurally sound to support the second-story addition. The second-story addition requires a variance from the Zoning Board of Appeals. Mr. McDougal stated that if they cannot use the porch, they would tear out the existing foundation.

Mr. McDougal stated that the removal of the slate patio adjacent to the screened porch is not included as part of the application, and that the owners may return to the Commission under a separate permit application for the relocation of the patio as part of an overall site-landscaping plan.

Mr. McDougal explained that the proposed driveway would have a curb to direct overland flow to the watercourse, and that he did not feel that onsite stormwater retention was needed. In response to a question, Mr. McDougal said that the driveway extension was to regain driveway area lost by the 12' addition.

In response to question, Mr. Treesh stated that they would maintain the Hemlocks, which are approximately 20' from the proposed driveway extension.

Upon further discussion of the plans and materials presented, the following motion was made: That the Commission approve with modifications Wetlands Permit Application #EPC-15-2004. The application is modified to include the reconstruction of the porch foundation if further inspection determines it is needed. The work was approved as shown on the plans entitled "Zoning Location Survey Prepared for Kevin W. Treesh and Madeleine E. Ret, #9 Old Oak Road, Darien, Connecticut" by William W. Seymour & Associates, dated May 12, 2003 and revised February 10, 2004. The motion was made by Ms. Cameron, seconded by Mr. Hillman and unanimously approved.

Other Business:

The Commission voted to include the discussion of a permit extension for the Keewayden Subdivision, Brookside Road, to the agenda:

Request for Permit Extension for Wetland Permit Approval #EPC-29-1997, Keewayden Associates, Brookside Road:

The Commission discussed the permit extension with Attorney William Hennessey and Joseph Mygatt of the Keewayden Associates. Atty. Hennessey summarized the work completed to date and the work to be conducted under the subdivision approval, as outlined within Attorney Hennessey's February 27, 2004 letter to David Keating, Zoning Enforcement Officer. The Commission reviewed Section 7.8(d) of the Town's Wetlands and Watercourses Regulations, and determined that the request to extend the permit, although untimely, would allow activity to proceed that would ultimately benefit and protect the wetland resources on the property.

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Upon further discussion and review of materials, the following motion was made: That the Commission approve the request to extend the expiration date of Wetland Permit Approval #EPC-29-1997 for a three-lot subdivision, which was originally approved on August 6, 1997. The permit is extended for five (5) years and expires on March 3, 2009. In granting the extension for #EPC-29-1997, the Commission confirms that the activities associated with the development of Lot #2 of the subdivision, including the boulder wall, are authorized and may proceed. The motion was made by Mr. Hillman, seconded by Mr. Kenyon, and unanimously approved.

Approval of Minutes:

The meeting minutes for February 4, 2004 were approved, with changes. The motion was made by Mr. Hillman and seconded by Ms. Miller. Mr. Hillman, Ms. Miller, Mr. Hutchison and Mr. Kenyon voted in favor of the motion. Ms. Cameron abstained from the vote. The motion was passed.

Adjournment: Having no further business to attend to, the Commission adjourned the March 3, 2004 meeting at 10:45 p.m.

Respectfully submitted,

Nancy H. Sarner
Environmental/GIS Analyst